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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/970,258	10/14/97	SLIFER	R

0M21/0216

EXAMINER

CLAYTON, S

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 02/16/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.  
08/970,258

Applicant(s)

RUSSELL DALE SLIFER

Examiner

S Clayton

Group Art Unit  
3713



Responsive to communication(s) filed on Nov 14, 1997

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-20 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3713

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 of this title before the invention thereof by the applicant for patent.

3. Claims 1-6, 9-13 and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Comas et al. '583.

Regarding claim 1-4, 6 , 9-12, 16, 18 and 19, Comas et al. '583 discloses an interactive wireless gaming system consisting of a plurality of wireless gaming units, which operate alternatively as a host device. The wireless gaming unit processor 12 consists of a random access memory (RAM) 20 and a read only memory (ROM) 23 and a wireless game controller 21 for executing game instructions. The wireless gaming unit includes a receiver for receiving wireless messages and a transmitter for transmitting wireless responses to provide updated gaming

Art Unit: 3713

information. In addition, a display displays the gaming information in the form of graphic characterizations of the moving objects. In addition, Comas et al. '583 discloses a plurality of control switches for generating control signal, see FIG 6 #27A-27F. In addition, Comas et al. '583 discloses a processor consisting of a non-volatile memory (ROM) for storing the data signals (information). In regards to a non-volatile memory for storing personalized identification information corresponding to the user of the controller, Comas et al. discloses a looping sequence, which is entered at block 44 whereupon the gaming users provides updates to all information regarding the current game, such as graphics characterizations and other gaming information in block 45. When the input signal at block 46 is received from the gaming units, the information is checked as to rather the gaming user responding is logging on, logging off or updating information at block 47. The game grid includes graphic characterizations as well as other information, such as personal identification information, best scores, past scores and skill level is provided by gaming users is updated at block 49. Comas et al. '583 is deemed to meet the claims as broadly claimed in the instant application.

Regarding claim 5, 13 and 17, Comas et al. '583 provides for a wireless gaming unit processor 12, in which gaming information received is sequentially stored as periodically updated signals in a memory 20 represented by a game RAM under the control of a wireless gaming unit controller 21. In addition, the controller 21 is coupled to a telephone network for receiving and communicating additional information (downloading) directly to the game server via modem 25 and network interface 26 prior to the operation of the video game, see FIGS 4 and 5.

Art Unit: 3713

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 7, 8, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comas et al. '583 in view of Henty '138.

Regarding claims 7 and 14 , Comas et al. '583 discloses essentially all the claimed invention as set forth in claims 1 and 9 of the instant application. However, Comas et al. '583 fails to disclose a portable controller consisting of a removable rechargeable battery pack and power saver circuitry for reducing the power consumption of the controller when the controller is not in use. However, Henty '138 discloses a portable electronic hand held video game consisting of a multi-directional controller 104 and a battery power supply 112 can include a separate rechargeable battery, which may be provided as an add on battery pack, see 5:50-62 and FIGS 6A

Art Unit: 3713

AND 6B. In addition, Henty '138 discloses power source control circuit in FIG 9. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Comas et al.'s '583 interactive wireless gaming system to include Henty's '138 portable video game and video game controller in order to provide a power system for the portable controller.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Comas et al.'583.

Regarding claim 20, Comas et al. '583 discloses all the claimed as set forth in claims 16 of the instant application. However, Comas et al. '583 fails to disclose a method of prohibiting operation of a video game based on a user's age. However, it would have been an obvious matter of modular design choice to include a module consisting of instructions for prohibiting the operation of a video game based upon the user's age in order to provide a method of controlling the amount of playing time or usage of video games by school age children.

*Citation of Pertinent Art*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kagan '045 discloses an interactive multiple player game system consisting of at least two devices communicating over an ad-hoc wireless, all-to-all broadcast network.

Rutkowski '849 discloses an electronic game system with a wireless controller consisting of a game console, which accepts a game cartridge and runs the games stored therein, and a wireless controller for controlling the game.

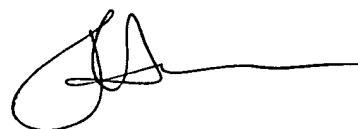
Art Unit: 3713

Nakanishi '100 discloses a game machine controller, which is proved with a memory pack equipped with a non-volatile memory. The memory pack is able to store a plurality of commands designated by a predetermined button operation as command programs.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to S Clayton whose telephone number is (703) 305-0124. The examiner can normally be reached Monday-Thursday from 7:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's primary can be reached at (703) 308-2217.



Jessica J. Harrison  
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SC  
02-02-99